Before The
Federal Communications Commission
Washington, DC 20554

In the Matter of	
High-Cost Universal Service Support	WC Docket No. 05-337
Federal-State Joint Board on Universal Service	CC Docket No. 96-45

COMMENTS OF CENTENNIAL COMMUNICATIONS CORP.

Centennial Communications Corp. ("Centennial") concurs in the comments being filed in this matter[1] by the Cellular Telecommunications Industry Association ("CTIA"). We file these separate comments to highlight certain points of particular concern to Centennial based on its own experiences as an eligible telecommunications carrier ("ETC") for nearly a decade.[2]

1. There Is No "Emergency."

Centennial appreciates the concerns underlying the Joint Board's recommendation that the Commission take immediate action to rein in growth of the universal service fund. It is certainly true that current universal service rules, combined with a number of industry trends (discussed below), are driving continuous growth in the fund.

That said, Centennial strongly disagrees with the notion that the Commission or the industry is facing any kind of "urgent" or "emergency" situation that requires

1 *High Cost Universal Service Support; Federal-State Joint Board on Universal Service,* Notice of Proposed Rulemaking, WC Docket No. 05-337; CC Docket No. 96-45 (released May 14, 2007) ("NPRM").

2 Centennial was designated as an ETC with respect to its service territory in Puerto Rico in 1997. Since that time Centennial has been designated as an ETC with respect to its service territories in Michigan, Indiana, Louisiana, and Mississippi as well. Its application for ETC status in the United States Virgin Islands is pending. Notably, as part of its ETC designation for Louisiana, Centennial began providing service to two communities – Shaw and Blackhawk – that previously had no telephone service at all.

immediate or precipitate action. When hurricanes Katrina and Rita knocked out landline and wireless service to millions of customers in the Gulf Coast region in August-September 2005, that was an emergency.[3] When terrorist attacks on the World Trade Center disrupted hundreds of thousands of landline lines in lower Manhattan on September 11, 2001, that was an emergency.[4] Looking further backward in time, when in June 1991, a software glitch in the SS7 system made it impossible for millions of telephone subscribers to make or receive local calls, that was an emergency.[5]

By contrast, when it appears that the universal service fund assessment percentage next year may be some tenths of a percentage point higher than it is this year, that is a reason for concern. It is even a reason for taking careful action – even prompt action – after due consideration. It is not, however, an "emergency" – not by any stretch of the imagination.

Centennial submits that applying the rhetoric of an "urgent" or "emergency" situation to the universal service fund has the effect of clouding, rather than clarifying, what is actually causing the fund to grow, and what should be done to deal with it. We encourage the Commission to bring some necessary perspective to this issue as this proceeding moves forward.

2. Fund Growth Is Driven By The Interaction Of Several Factors, Not Any One In Isolation.

No one contests that under the current universal service rules, the demands on the fund are growing and are likely to continue to do so. That said, no one element in the

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3 FCC News Release, "FCC To Be Open Labor Day Weekend In Response To Hurricane Katrina Relief and Restoration Efforts" (September 2, 2005).

4 Several hundred thousand Verizon customers in New York lost service in the September 11 attacks, with restoration taking months. *See* "Verizon service is leaving many phones hung up; Complaints of slow restoration," CRAIN'S NEW YORK BUSINESS (December 3, 2001).

5 *See* J. Burgess, "A Little 'Bit' Goes a Long Way," INTERNATIONAL HERALD TRIBUNE (October 8, 1991), available at: http://www.iht.com/articles/1991/10/08/soft.php#. As that article points out, as a result of a software error in SS7 signaling equipment, "close to 6.5 million lines in three East Coast states and the Washington area were affected, with customers unable to make most local calls and their phone companies unable to explain why."

universal service equation is causing that growth. Instead, the ***interaction*** of several factors is doing so. As a result, it is disingenuous to point to one element of that equation alone, and declare that one element to be the "real" source of the problem. Such an approach brings divisiveness and dissention to the process – essentially, different stakeholders pointing fingers, each seeking to "blame" the other. It does not encourage clear or creative thinking about how to solve the problem.[6]

There are four key drivers of the growth of the fund.

First is the rule that says that landline ILECs are entitled to receive payments from the fund based on their (largely unaudited and unreviewed) claims about how much it "costs" them to provide service. The Commission has known for almost two decades that paying carriers based on their costs destroys incentives to improve efficiency; that is the entire logic of the price cap system of regulation.[7] Moreover, a healthy realism about the regulatory process shows – as the Supreme Court has noted in a slightly different context – that under any system of cost-based regulation, the cost-regulated carriers will have both the ability and the incentive to game the system – including their management of the data they make available to the regulators – so as to maximize their own payments.[8]

Assuming that cost-based payments to ILECs – however imperfect our cost data might be – will remain in place, the second driver of fund growth is the rule that allows landline ILECs to treat their recoverable costs as undiminished even as they lose more and more lines over time. Decades ago, in a true monopoly environment, it was probably reasonable to assume that if a customer at some residence location disconnected service, sooner or later the plant serving that location would be re-activated. In such an

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6 "Frankly, I worry that an emergency, interim cap inflames discord and disagreement among industry sectors at a time when we should be bringing everyone to the table to develop as much consensus as we can. I don't see the need to poison the well when we could all be drinking from the same cup." *High Cost Universal Service Support; Federal-State Joint Board on Universal Service,* Recommended Decision, WC Docket No. 05-337; CC Docket No. 96-45 (released May 1, 2007) (Dissenting Statement of Commissioner Copps).

7 *See, e.g., Policy and Rules Concerning Rates for Dominant Carriers,* Second Report and Order, 5 FCC Rcd 6786 (1990) (price cap regulation)

8 *See Verizon Communications v. FCC,* 535 U.S. 467, 486, 512 (2002).

environment, under the logic of cost-based regulation, it probably made sense to treat the idle feeder and distribution plant as "spare" waiting to be used.

In today's world, however, such an assumption is unwarranted. Most notably, the percentage of telephone users who simply choose not to have any landline service is growing. The most recent figures available show that more than 10% of households have no landline service.[9] Moreover, young adults were much more likely than average to live in a wireless-only household.[10] So not only are more and more people "cutting the cord" and relying on their wireless phone for their only service, this trend is more pronounced among younger people, and so will only become more significant over time. Whatever may have made sense in the past, it is flatly irrational to assume that a landline loop that goes out of service today will come back into service within any reasonable planning horizon.[11]

The third driver of fund growth is the way in which an ILEC ETC's universal service amounts are translated into amounts for competitive ETCs. This is accomplished by dividing the ILEC's costs by the number of ILEC lines in service, to create a per-line amount; that amount becomes the basis for payments to the competitive ETCs in the

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9 *See* Center for Disease Control, National Center for Health Statistics, Division of Health Interview Statistics (S.J. Blumberg & J.V. Luke), "Wireless Substitution: Preliminary Data from the January-June 2006 National Health Interview Survey," (May 14, 2007), available online at: http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200705.pdf.

10 Indeed, "one in four adults (25.2%) aged 18-24 years lived in households with only wireless telephones. Nearly 30% of adults aged 24-39 years lived in households with only wireless telephones." *Id.*

11 Other demographic trends only highlight this problem. For example, half of all non-metropolitan-area counties lost population between 2000 and 2005. Moreover, the declining-population counties are typically the ones that are already sparsely settled. *See* U.S. Department of Agriculture, "Rural America At A Glance," 2006 Edition, at 2, available online at: http://www.ers.usda.gov/publications/eib18/. In other words, in precisely those counties where landline ILECs are likely to be large recipients of universal service support, the population is declining. As a result, completely apart from the ongoing shift from landline to wireless telephone service, the number of occupied housing units in many rural areas is on the decline. Yet there is nothing in the universal service rules that calls on rural ILECs to restate their rate base and associated expenses downwards when a housing unit becomes vacant as a result of someone moving to the city, never to return.

same area.[12] As noted above, ILEC costs are not adjusted downward as the ILEC loses lines. ***That*** element of the system, combined with decreasing ILEC line counts, has the effect of increasing the per-line amounts made available to competitive ETCs.[13] While this certainly makes sense from the perspective of competitive neutrality – ***if*** the system is going to pay the ILEC ETC more per line, then a competing ETC should get the same amount – it does increase total payments from the fund.

The fourth key factor driving the growth of the fund under current rules is the flip side of decreasing landline ILEC lines – increasing wireless lines. As just noted, competitive ETCs receive their universal service support in a manner that ensures they receive the same per-line amount as the ILEC receives.[14] So, as wireless ETCs attract more and more customers, their disbursements from the fund increase accordingly. Again, this makes perfect sense: given that wireless ETCs are providing more and more supported services to more and more people, it would be a bit odd if their payments did ***not*** increase. But when overall increases in the size of the fund are viewed with concern, this is obviously one part of the equation to be considered.

There is no quick-and-easy solution to the fact that these factors, acting in concert, have been driving up the size of the universal service fund. From one perspective – with wireless service already the dominant form of voice communications in America, and strong trends making it ever more so – any universal service system that did ***not*** make increasing payments to wireless ETCs would be artificial and probably discriminatory. At the same time, for the reasons stated above, it makes no sense to simply assume that all the costs that might be found on a rural ILEC's books should be included when calculating universal service disbursements. Yet for these very reasons,

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12 47 C.F.R. § 54.307.

13 If an ILEC's costs are $100,000 per month to serve an initial count of 10,000 lines, but the number of lines then decreases to 9,000 as customers move to the city and switch to wireless, a subsidy of $10.00 per line per month becomes $11.11 per line per month simply by the mathematical operation of this rule.

14 *See* 47 C.F.R. § 54.307.

some aspects of the formula by which per-line wireless support amounts are calculated would appear to generate higher payments than might make sense in the long run.

Given all this, the question is what – if anything – to do about fund growth on an interim basis while longer-term universal service issues are sorted out.

3. A Fair And Competitively Neutral Interim Solution Is Readily Apparent.

The Commission recognizes that over time the universal service fund will be reformed in a manner that addresses the broad issues affecting fund growth and disbursements.[15] The matter presently under consideration is what to do now.

If the Commission is concerned with the rate of growth of the fund during an interim period while more comprehensive universal service reform is undertaken, there is a very simple way to deal with that problem directly and fairly: freeze the ***contribution factor*** at the current level. That will allow the fund itself to grow at the same rate as overall industry revenues grow, without placing any greater proportionate burden on the industry to support universal service than exists today. And, if it turns out that the total amount in the fund for any given year – even after taking overall industry growth into account – is not enough to cover all claims on the fund from all ETCs (using current rules for determining the amounts to which all ETCs are initially, tentatively entitled), then the disbursements to each ETC would simply be reduced *pro rata* to reflect the shortfall.[16]

Freezing the contribution factor and equally sharing the "pain" caused by any shortfalls would achieve the Joint Board's immediate objective of ensuring that growth in the fund does not get out of hand while long-term reform is considered and adopted. It would also treat all ETCs fairly, rather than placing all of the burden associated with the interim solution on competitive ETCs. And, it would allow administration of the existing

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[15] *See* NPRM at ¶ 5.

[16] That is, if the total universal service fund for 2007 turns out to be (say) $6 billion, but total claims on the fund (under current rules) are $7 billion, then every ETC would receive 6/7, or 85.7%, of its otherwise available amount.

universal service program – including the designation of additional competitive ETCs, where appropriate – to proceed without artificial financial impacts on particular ETCs or particular states.

With due respect, Centennial submits that the Joint Board's proposed solution to this problem – a state-specific cap on payments from the fund, applicable only to competitive ETCs – is completely wrong-headed. With eyes fixed firmly on the past, that recommendation inherently assumes that supposedly cost-based payments to rural ILEC ETCs are legitimate and appropriate, and at the same time inherently assumes that competitively neutral line-based payments to competitive ETCs – overwhelmingly wireless carriers – are somehow suspect.

The assumption that landline ILECs provide the "real" critical service worthy of universal service support, while wireless carriers provide some kind of add-on luxury service, may have been true fifteen years ago, and maybe even a decade ago when the present universal service system was established with the Telecommunications Act of 1996. But it is simply not true today. Today wireless service is far and away ***the*** basic, dominant means by which residential customers obtain telephone service in the United States. The most recent available figures show that landline service continues to decline, with a total landline lines nationwide falling to 172.0 million as of mid-year 2006.[17] At the same time, wireless lines in service have risen to 217.4 million as of that same point in time.[18] Considering that 39% of landline lines are purchased by business customers,[19] while the overwhelming majority of wireless lines are purchased by individual consumers for their own use, the disparity between the two services as relevant to universal service – that is, the actual dominance of wireless over landline for residential users – is much

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17 Wireline Competition Bureau, Industry Analysis and Technology Division, LOCAL TELEPHONE COMPETITION: STATUS AS OF JUNE 30, 2006 (January 2007) ("LOCAL COMPETITION REPORT")at Table 1 (ILEC and CLEC lines combined).

18 *Id.* at Table 14.

19 *Id.* at Table 12 (61% of all ILEC and CLEC lines, combined, are residence lines).

greater than the aggregate figures suggest.[20] Moreover, as noted above, the most recent available data shows that roughly 10% of all households with telephones have ***only*** wireless service. This proportion will only increase as younger people who have grown up in a wireless-dominated environment continue to form new households as they leave school and begin their careers.

Any action regarding universal service that fails to take account of these facts is simply not based on reality. As a result, it makes no sense to suggest that it is fair or reasonable to slow the growth of the universal service fund by capping amounts payable to competitive ETCs – particularly wireless ETCs. Aside from being blatantly discriminatory based on technology, why would it make sense to limit the payments to the carriers who are providing more supported services – and increasing their costs while doing so – but leaving unchanged the payments to the carriers who are providing less supported services over time, and who are shedding costs while doing so?

Centennial submits that the Commission should use this proceeding to acknowledge the obvious – landline service, whether in urban or rural areas, is no longer the primary, most important, or most "essential" voice service that Americans use. Wireless service is. For that reason, the Commission should reject any proposed action in the realm of universal service that is premised on the outmoded, opposite view that traditional landline service is what really matters.[21]

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[20] The figures just quoted show that there are only about 104.9 million ***residence*** landline lines in service (172 million lines x 61% residential). Yet the overwhelming majority of the 217.4 million wireless lines are purchased by individual consumers. So, looking only at the residential services – the focus of universal service – we are rapidly approaching, and may already have passed, the point at which, nationwide, there are ***more than twice as many*** wireless as landline residence lines in service. We have clearly already reached that point in Puerto Rico, Centennial's largest single market. As of June 30, 2006, the ILEC in Puerto Rico reported 1.03 million landline lines in service – without even taking business lines out of the total. LOCAL COMPETITION REPORT at Table 10. As of that same date, there were 2.17 million wireless lines in service. *Id.* at Table 14.

[21] As a matter of fairness – and administrative law – any significant change in existing universal service disbursement rules would have to be prospective only. Indeed, the more radical the change from the *status quo,* the more important it is to ensure that the industry has proper notice of the change before it takes effect. This is particular true for programs like universal service, where changes can disproportionately and unfairly affect small, publicly traded firms like

4. Conclusion.

The continuing growth in the universal service fund is not an emergency; it is a cause for concern and for careful, reasoned action. Moreover, that situation does not arise as a result of the "fault" of any carrier or group of carriers, nor does it arise from any single feature of the current system. Instead, it results from the interaction of many aspects of the current system, each of which made a certain amount of sense when established and viewed in isolation, but which might reasonably be subject to revision going forward.

In these circumstances a reasonable, fair and balanced way to deal with fund growth on an interim basis is simply to freeze the current assessment percentage so that the burden of the universal service system does not grow as a proportion of the total size of the industry. To the extent that there are shortfalls in total available funds as compared to claims on the fund under current rules, all ETCs would bear their *pro rata* share of those shortfalls.

Centennial that receive substantial support. Centennial submits that in this case, any change in the method of disbursing universal service funds should take effect no earlier than calendar year 2008, using 2007 as the "base year" if that is relevant to the specific plan adopted.

The Commission should specifically reject the Joint Board's proposal, which unfairly targets wireless ETCs to receive fewer funds even as they provide essential services to a greater and greater proportion of customers.

Respectfully submitted,

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